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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

IN RE: HIGH-TECH EMPLOYEE  
ANTITRUST LITIGATION

THIS DOCUMENT RELATES TO:

ALL ACTIONS

Master Docket No. 11-CV-2509-LHK

**ADMINISTRATIVE MOTION TO  
ENFORCE DECEMBER 18, 2013 CASE  
MANAGEMENT ORDER AND LOCAL  
RULE 7-11**

1 Without filing an administrative motion as required by Local Rule 7-11, and disregarding  
2 this Court's efforts to manage this lawsuit and its docket, Defendants violated the December 18,  
3 2013 Case Management Order by filing motions to exclude expert evidence that exceed the  
4 Court-ordered 25 page limit. Dkt. 547 at 2 ("The parties' *Daubert* motions shall be limited to a  
5 total of 25 pages per side, with oppositions not to exceed a total of 25 pages per side".)  
6 Accordingly, Plaintiffs respectfully request that this Court strike excessive briefing that has  
7 violated the applicable page limits and Local Rule 7-11.

8 "A district court possesses inherent power over the administration of its business. It has  
9 inherent authority to regulate the conduct of attorneys who appear before it . . . [and] to  
10 promulgate and enforce rules for the management of litigation. *Spurlock v. FBI*, 69 F.3d 1010,  
11 1016 (9th Cir. Cal. 1995) (citing *Chambers v. NASCO, Inc.*, 501 U.S. 32, 43 (1991) and *Thomas*  
12 *v. Arn*, 474 U.S. 140, 146 (1985)). The authority of courts to manage their resources is "governed  
13 not by rule or statute but by the control necessarily vested in courts to manage their own affairs so  
14 as to achieve the orderly and expeditious disposition of cases." *Chambers*, 501 U.S. at 43.

15 In numerous case management conferences, the Court addressed the parameters for the  
16 parties' summary judgment motions and evidentiary motions. See Oct. 21, 2013 Case Mgmt.  
17 Conf. Tr., at 70:20-23 ("The reason why I'm also limiting the briefing, number one, is there are  
18 going to be so many different motions that it's going to be difficult for my chambers to handle.")  
19 (emphasis added); May 15, 2013 Case Mgmt. Conf. Tr., at 28:13-18 ("I want to strongly  
20 encourage you to restrict these [*Daubert* motions] further and—and the reason is that, you know,  
21 most likely, things are going to weight and not admissibility."); Apr. 8, 2013 Case Management  
22 Conf. Tr., at 12:22-13:5 ("If the *Daubert* motions are like the *Daubert* motions I saw on the class  
23 cert. motion, I'm going to be disappointed because, you know, ultimately that's really weight and  
24 not admissibility and the criticisms that each side raised are really more for cross-examination  
25 and for closing argument. So I really—I just don't want to have to, you know, spend a ton of  
26 resources just having to do a bunch of those because those are not going to be granted."). Thus  
27 the Court limited the parties to 25 pages for their challenges to expert evidence.

28 Rather than adhere to this limitation, Defendants filed three motions to exclude expert

evidence totaling 35 pages (including two separate motions that challenge the same expert). These motions consist of (1) Defendants' Joint Motion To Exclude The Expert Testimony Of Edward E. Leamer, Ph.D. (15 pages); (2) Defendants' Joint Motion To Strike The Improper Rebuttal Testimony In Dr. Leamer's Reply Expert Report (10 pages); and (3) Defendants' Joint Motion to Exclude the Expert Testimony of Matthew Marx, and Memorandum Of Points And Authorities In Support Thereof (10 pages). As even cursory examination reveals, the motion to strike Dr. Leamer's reply is entirely redundant to and repetitive of the motion to exclude his testimony, and reflects basically extra pages addressing the same issues.

Plaintiffs accordingly request that the Court enforce its scheduling order and strike Defendants' Motion To Strike The Improper Rebuttal Testimony In Dr. Leamer's Reply Expert Report. In the alternative, Plaintiffs respectfully request that the Court consider Plaintiffs' opposition to Defendants' motion to strike, attached as Exhibit A.

Dated: February 6, 2014

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By: /s/ Kelly M. Dermody

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